

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI, State Bar No. 129533
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2932
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2008-359

12 GAIL PATRICIA STELL AKA GAIL
PATRICIA LANDRESS
12321 Riverside Dr., Apt. 105
13 Valley Village, CA 91607
Registered Nurse License No. 210827

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about October 31, 1970, the Board of Registered Nursing issued
22 Registered Nurse License Number 210827 to Gail Patricia Stell aka Gail Patricia Landress
23 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
24 the charges brought herein and will expire on September 30, 2008, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 118 of the Code states, in pertinent part:

4 “(b) The suspension, expiration, or forfeiture by operation of law of a license
5 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
6 board or by order of a court of law, or its surrender without the written consent of the board, shall
7 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
8 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
9 any ground provided by law or to enter an order suspending or revoking the license or otherwise
10 taking disciplinary action against the licensee on any such ground.

11 5. Section 2750 of the Code provides, in pertinent part, that the Board may
12 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
13 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

14 6. Section 2764 of the Code provides, in pertinent part, that the expiration of
15 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
16 against the licensee or to render a decision imposing discipline on the license. Under section
17 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
18 the expiration.

19 7. Section 2761 of the Code states:

20 “The board may take disciplinary action against a certified or licensed nurse or
21 deny an application for a certificate or license for any of the following:

22 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

23

24 “(d) Violating or attempting to violate, directly or indirectly, or assisting in or
25 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
26 Nursing Practice Act] or regulations adopted pursuant to it.”

27 8. Section 2762 of the Code states:

28 “In addition to other acts constituting unprofessional conduct within the meaning

1 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
2 under this chapter to do any of the following:

3 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
4 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
5 or administer to another, any controlled substance as defined in Division 10 (commencing with
6 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
7 defined in Section 4022.

8 “(b) Use any controlled substance as defined in Division 10 (commencing with
9 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
10 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
11 injurious to himself or herself, any other person, or the public or to the extent that such use
12 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
13 license.”

14 9. Section 2770.11 of the Code states:

15 “(a) Each registered nurse who requests participation in a diversion program shall
16 agree to cooperate with the rehabilitation program designed by a committee. Any failure to
17 comply with the provisions of a rehabilitation program may result in termination of the registered
18 nurse’s participation in a program. The name and license number of a registered nurse who is
19 terminated for any reason, other than successful completion, shall be reported to the board’s
20 enforcement program.

21 “(b) If a committee determines that a registered nurse, who is denied admission
22 into the program or terminated from the program, presents a threat to the public or his or her own
23 health and safety, the committee shall report the name and license number, along with a copy of
24 all division records for that registered nurse, to the board’s enforcement program. The board may
25 use any of the records it receives under this subdivision in any disciplinary proceeding.”

26 10. Health and Safety Code section 11170 states: “No person shall prescribe,
27 administer, or furnish a controlled substance for himself.”

28 11. Health and Safety Code section 11173 states, in pertinent part:

1 “(a) No person shall obtain or attempt to obtain controlled substances, or procure
2 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
3 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

4 12. California Code of Regulations, title 16, section 1448 (b) states in
5 pertinent part:

6 “The committee may terminate a nurse’s participation in the program for
7 any of the following reasons:

8

9 (b) Failure to comply with the rehabilitation program designated by the
10 committee....”

11 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licentiate found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 14. CONTROLLED SUBSTANCES

16 A. “Dilaudid,” is a trade name for Hydromorphone, an Opium derivative,
17 which is classified as a Schedule II Controlled Substance pursuant to Health and Safety Code
18 section 11055, subdivision (b)(1)(k), and is a dangerous drug within the meaning of Business and
19 Professions Code section 4022.

20 B. Vicodin, is a trade name for a combination drug containing hydrocodone
21 bitartrate (opioid analgesic) and acetaminophen, is a Schedule III controlled substance as defined
22 in Health and Safety Code section 11056(e)(7), and is categorized as a dangerous drug pursuant
23 to Business and Professions Code section 4022.

24 FIRST CAUSE FOR DISCIPLINE

25 (Obtain or Possess a Controlled Substance)

26 15. Respondent is subject to disciplinary action under Business and
27 Professions Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as
28 defined in Business and Professions Code section 2762, subdivision (a), for violating Health and

1 Safety Code section 11173, subdivision (a), in that during and subsequent to her employment as a
2 registered nurse at USC/Tenet Norris Cancer Hospital, BMT unit, Respondent obtained or
3 possessed controlled substances by fraud, deceit, misrepresentation or subterfuge, as follows:

4 a. From on or about November 2006 to on or about May 2007, while on duty
5 as a registered nurse at USC/Tenet Norris Cancer Hospital, BMT unit, Respondent diverted and
6 obtained or possessed Dilaudid, such that she was chronically late and impaired at her job.

7 b. On or about August 28, 2007, while entered in the Board's diversion
8 program, Respondent tested positive for Ethyl Glucuronide (ETG).

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Self Administration of a Controlled Substance)

11 16. Respondent is subject to disciplinary action under Business and
12 Professions Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as
13 defined in Business and Professions Code section 2762, subdivision (b), for violating Health and
14 Safety Code section 11170, in that prior to, during and subsequent to her employment as a
15 registered nurse at USC/Tenet Norris Cancer Hospital, BMT unit, Respondent administered or
16 furnished controlled substances to herself, as follows:

17 a. From on or about November 2006 to on or about May 2007, while on duty
18 as a registered nurse at USC/Tenet Norris Cancer Hospital, BMT unit, Respondent diverted and
19 administered or furnished Dilaudid to herself, such that she was chronically late and impaired at
20 her job.

21 b. On or about August 28, 2007, while entered in the Board's diversion
22 program, Respondent tested positive for Ethyl Glucuronide (ETG).

23 c. From on or about mid 2005 to on or about July 2007, Respondent diverted
24 and administered or furnished Vicodin to herself, over her prescribed limit, sometimes taking 6 -
25 10 tablets per day.

26 **THIRD CAUSE FOR DISCIPLINE**

27 (Unprofessional Conduct - Failure to Successfully Complete Diversion)

28 17. Respondent is subject to disciplinary action under Business and

1 Professions Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as
2 defined in Business and Professions Code section 2770.11, and California Code of Regulations,
3 title 16, section 1448, subdivisions (b), for failing to complete the Board's diversion program, as
4 follows:

5 a. On or about May 2007, Respondent referred herself to the Board's
6 diversion program after being counseled and admitting she had diverted Dilaudid from USC
7 /Tenet Norris Cancer Hospital. Respondent was enrolled into the diversion program on June 11,
8 2007. Respondent self reported a relapse on June 30, 2007 and July 1, 2007 when she took
9 vicodin for her back pain. She tested positive for alcohol (3000 ng/ml) on August 28, 2007.
10 Respondent was terminated unsuccessfully from the diversion program on September 6, 2007,
11 for failure to comply with the provisions of the rehabilitation plan, and with the status of public
12 risk due to respondents high level of depression, her positive test for alcohol, as well as her
13 unwillingness to attend an inpatient treatment program.

14 DISCIPLINE CONSIDERATIONS

15 18. In order to determine the degree of discipline to be imposed, if any,
16 complainant makes the following allegations:

17 a. Respondent violated Business and Professions Code section 2761,
18 subdivision (a), on the grounds of unprofessional conduct, as defined in Business and Professions
19 Code section 2762, subdivision (a), for violating Health and Safety Code section 11173,
20 subdivision (a), in that while employed as a registered nurse, Respondent obtained or possessed
21 controlled substances by fraud, deceit, misrepresentation or subterfuge, when she diverted and
22 obtained or possessed dilaudid, prior to completing her first diversion program in April 2003.

23 b. Respondent violated Business and Professions Code section 2761,
24 subdivision (a), on the grounds of unprofessional conduct, as defined in Business and Professions
25 Code section 2762, subdivision (b), for violating Health and Safety Code section 11170,
26 subdivision (a), in that while employed as a registered nurse, Respondent administered or
27 furnished controlled substances to herself when she diverted and administered or furnished
28 dilaudid to herself prior to completing her first diversion program in April 2003.

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 210827, issued
5 to Gail Patricia Stell aka Gail Patricia Landress Gail Patricia Stell.

6 2. Ordering Gail Patricia Stell to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 6/16/08

12
13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 LA2008600684

21 Accusation.wpd
22
23
24
25
26
27
28